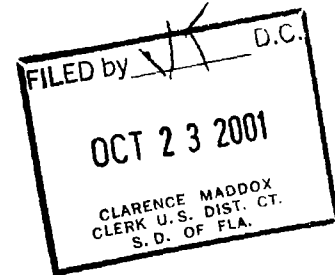


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 00-6273-CR-HUCK-BROWN

UNITED STATES OF AMERICA,
Plaintiff,

VS.

ARIEL HERNANDEZ, et al.,
Defendant.



**ORDER DENYING EX-PARTE MOTION TO APPOINT DEFENSE
EXPERT AREA OF EXPERTISE: PSYCHOLOGIST- HUMAN SEXUALITY**

THIS CASE is before the Court on Defendant Hernandez's Ex-Parte Motion to Appoint Defense Expert Area of Expertise: Psychologist-Human Sexuality. Defendant Hernandez asks the Court to authorize the Defendant to retain a defense expert, a psychologist with an expertise in human sexuality. The Defendant suggest that the expert would opine regarding consensual human sexual conduct, specifically "to educate the jury to the fact that there are people who voluntarily and consensually engage in sexual conduct that the members of the jury may personally find repugnant." Defendant Hernandez does not represent or suggest that his proposed expert will opine that the instant death was caused by consensual sex or that he is qualified to do so.


Moreover, as stated, the expert's anticipated opinion about general human sexual conduct does not appear admissible. It appears from the representations in Defendant's Motion that any such opinion would be irrelevant and speculative. Therefore, the Court finds that Defendant Hernandez has not made a sufficient showing that any of the expert's opinion would be

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admissible or that there is a reasonable basis or need to engage the proposed expert.

ORDERED AND ADJUDGED that the Defendant's Ex-Parte Motion to Appoint
Defense Expert Area of Expertise: Psychologist-Human Sexuality is DENIED.

DONE AND ORDERED in Miami, Florida, this 23rd day of October, 2001.


PAUL C. HUCK
UNITED STATES JUDGE

cc: Jeffrey Weinkle, Esq.